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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,651	01/10/2002	Hiroshi Hashimoto	1382-TC-378	9394

110 7590 02/18/2004

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EXAMINER

CHARLES, MARCUS

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/044,651

Applicant(s)

HASHIMOTO ET AL.

Examiner

Marcus Charles

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003 and 29 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-8 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This action is responsive to the amendment and RCE filed 12-08-2003 and 12-29-2003 respectively, which have been entered. Claims 1-8 are currently pending.

Continued Examination Under 37 CFR 1.114

1. The request filed on 12-29-2003 for a Request for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 10/044,651 is acceptable and a RCE has been established. An action on the RCE follows.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by JP(05-321994). JP(05-321994) discloses a hydraulic tensioner (figs. 1-2) comprising a body (11) with a cylindrical hole (14); a hollow cup-shaped cylinder (13) fitted in the hole, the hollow cylinder having a bottom section formed as one piece with the cylinder, a wall having an external diameter corresponding to the diameter of the hole and an internal diameter; a plunger (21) provided within the hollow cylinder; a compression spring (25) within the internal diameter and urging the plunger outwardly from the cylinder, the inner end of the plunger forming a pressure oil chamber (27) with the interior wall of the cylinder and the bottom section, the cylinder bottom section having a through hole (34) to allow inflow of fluid into the pressure chamber (27), the outer end of the pressure

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chamber being closed by the plunger end (24) and the bottom section is engaged by the spring.

In claims 3, note the valve (35) at the bottom of the cylinder.

In claims 4-5, note the check valve includes a ball, a retainer having top (not labeled) and mounted on the bottom plate, a spring (not labeled) between the top plate and the ball.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP(05-321994) in view of EP(0409460). JP(05-321994) does not disclose the tensioner includes ratchet teeth on the outer surface of the plunger and pawl pivotally in a cutout in the hollow cylinder of the body and biased the pawl is by a spring. EP(0409462) discloses a tensioner comprising ratchet teeth (34) on the outer surface of the plunger (30), and pawl (38) pivotally in a cutout in the hollow cylinder (12) of the body and the pawl is biased by a spring (39) in order to limit the movement of the plunger in increments steps while permitting a predetermine amount of backlash in the movement of the plunger and for the plunger to be locked during shipment. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the tensioner of JP(05-321994) to include the pawl and ratchet device

of EP (0409460) in order to limit the movement of the plunger in increments steps while permitting a predetermine amount of backlash in the movement of the plunger and for the plunger to be locked during shipment.

6. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP(05-321994) does not disclose the body is made from a die-cast product or a molded resin. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the body of JP(05-321994) so that is made from a die cast product or molded resin, since it is well know that die-cast products and molded resin are used because of their resistance property, strength and light weight structure without compromising the size of the device, and it has been has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a mater of design choice. *In re Leshin*, 125 USPQ 416.

Allowable Subject Matter

7. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Suzuki (5,908,363), DE 2803005), Anno et al.(4,674,996), Kawashima et al.(5,702,317) and (4,940,447) and JP(2000-329204) disclose a hydraulic tensioner comprising a cylinder body housing a hollow cup-shape cylinder.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (703) 305-6877. The examiner can normally be reached on Monday -Thursday 7:30 am-600 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on (703) 308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Marcus Charles
Primary Examiner
Art Unit 3682
February 10, 2003